



DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Exemption Application Nos. D-12042, D-12039, and D-12049]

Notice of Withdrawal of Proposed Exemptions

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of withdrawal of proposed exemptions.

SUMMARY: This document provides notice of the withdrawal of three proposed individual exemptions from certain prohibited transaction restrictions of the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code (the Code). The proposed exemptions were issued by the Department of Labor on August 24, 2022.

FOR FURTHER INFORMATION CONTACT: Joseph Brennan of the Department at (202) 693-8456. (This is not a toll-free number.)

WITHDRAWAL OF PROPOSED EXEMPTION

The Department published notices of proposed exemption from certain prohibited transaction provisions of ERISA and the Code in the *Federal Register* on August 24, 2022, for the following applicants: Triple-S Management Corporation, Blue Cross and Blue Shield of Kansas City, and the National Account Service Company LLC.¹ As described more fully in the proposed exemptions, the applicants sponsor defined

¹ Triple-S Management Corporation (87 FR 52168); Blue Cross and Blue Shield of Kansas City (87 FR 52124); National Account Service Company LLC (87 FR 52174).

benefit plans that have (or had) filed legal action and claims against Allianz Global Investors U.S. LLC (Allianz) and Aon Investments USA Inc. (Aon) regarding certain investment losses the plans incurred during the first quarter of 2020.

The proposed exemptions would have permitted the applicants to make payments to their respective plans in order to offset the investment losses the plans incurred, and, if the plans received litigation proceeds from the claims, to transfer the lesser of the litigation proceeds amounts or the payments to the applicants. Without an exemption, the plans' receipt of payments from the applicants in exchange for the plans' transfer of litigation proceeds to the applicants would violate certain prohibited transaction provisions of ERISA and the Code. The applicants represented to the Department that the plans have received litigation proceeds from the claims.

After the publication of the proposed exemptions in the *Federal Register*, the applicants informed the Department that they have decided not to pursue the proposed exemptions due to changed circumstances and requested the Department to withdraw their exemptions. Therefore, the Department is withdrawing the proposed exemptions from the *Federal Register* as requested.² As a

² In withdrawing the proposed exemptions, the Department is not expressing an opinion regarding the merits of any claim against Allianz and Aon or whether the plans' fiduciaries met their fiduciary duties with respect to plan assets that are the subject of the claims.

result, the applicants may not receive repayments for any amounts they paid to their respective plans in connection with the plans' receipt of litigation proceeds from the claims, because such repayments would constitute a violation of certain prohibited transaction provisions of ERISA and the Code.

Signed in Washington, DC.

George Christopher Cosby,

Director,

Office of Exemption Determinations,

Employee Benefits Security Administration,

U.S. Department of Labor.

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Further, in withdrawing the proposed exemptions, the Department is not limiting any party's claim, demand, and/or cause of action arising from the plans' 2020 first quarter losses in any way.